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S E C R E T SECTION 01 OF 03 BERLIN 002577

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FOR S/CT - AMBASSADOR CRUMPTON

E.O. 12958: DECL: 08/30/2016

TAGS: [PTER](#) [PGOV](#) [GM](#)

SUBJECT: SCENESETTER: AMBASSADOR CRUMPTON'S VISIT TO BERLIN

REF: A. BERLIN 2303

[1](#)B. BERLIN 2234

Classified By: DCM John Koenig for Reasons 1.4 (b) and (d)

[1](#)1. (C) Summary. The July 31 train bombing plot, the UK airplane bombing plot, and the Hizballah-Israel war have brought about public debate in Germany that gives us new opportunities for increased counterterrorism cooperation which you should explore in your discussions here. After 9/11, Germany began cooperating very closely with the U.S. and enacted numerous CT legal improvements. While good cooperation has always characterized the U.S.-German counterterrorism relationship, both sides want to do more. The Merkel government plans to take more robust national measures and would like to intensify cooperation with us. In particular, we have sought greater information sharing to prevent the entry into both our countries of individuals connected with terrorism. Unfortunately, data privacy concerns and public perceptions (skeptical of a terrorist attack in Germany and misunderstanding the U.S.) have limited Germany's ability to act. The current debate within Germany creates an opening for our two governments to right the balance. End Summary.

Current U.S.-German CT Cooperation Solid...

[1](#)2. (C) Numerous USG entities, from FBI to the several DHS agencies on the ground here, cooperate well with their German counterparts in the war on terror. To date, however, while informal exchanges work well, often as a function of excellent personal relations between USG officials and their German counterparts, formal agreements or data exchanges have been few, largely due to German concerns over maintaining data privacy and a strong focus on working within the EU. There has also been a concern that pushing hard for formal agreements could disrupt the information flows that take place and help us in the fight against the terrorists.

... Although with Obstacles to Improvement

[1](#)3. (S) Press allegations and exaggerations (e.g., charges of secret detention centers, allegations over renditions,

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discussions over German assistance to the U.S. during the Iraq war) have raised some objections to the cooperation both sides want. A special Bundestag Committee is investigating some of these allegations; German officials say they sometimes spend half their day reviewing old files for information to give the Committee. The committee's creation also cast a shadow over some informal information sharing, with some officials now fearing the press or the Bundestag may later disclose it, thus rendering German officials

personally liable. Some German law enforcement offices that formerly provided information quickly and informally now require letters rogatory.

¶4. (C) Another concern is EU and German Data Privacy policy. Proposed EU regulations might compel data privacy authorities' case-by-case approval of law enforcement data sharing. This possibility could significantly disrupt information flow. At the same time, a German initiative -- the so-called Pruem agreements -- tightens law enforcement cooperation with select EU partners, enabling, for example, nearly instant electronic sharing of fingerprints and other key data. Meanwhile, Germany opposed a U.S.-proposed fingerprint-sharing initiative. While we have made the point at the Director General and working level, few German officials see it as illogical and unwise for Germany to take these steps with its EU partners, while holding back cooperation with the U.S.

¶5. (SBU) German counterterrorism experts, including German leaders in the fight against terror whom you will meet, remain conscious of the risks Germany faces. But another obstacle to better CT cooperation is public perception. Years of post-9/11 polls show the German public is not as concerned about terrorism as its leaders -- or the citizens of countries like the UK or the Netherlands. One recent poll said only thirty-one percent of Germans fear a terrorist attack, 68 percent do not (the September 2002 numbers were 20 and 76, respectively). Opposition political parties (chiefly the Free Democrats - FDP - and the Greens) have maintained their traditional stress on strengthening civil liberties and opposing stronger counterterrorism legal initiatives.

German Counterterrorism Landscape

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¶6. (C) The 9/11 connection to Hamburg spurred German legal changes that greatly improved their counterterrorism regime, e.g., new laws banned membership in foreign -- not just German -- terrorist organizations and simplified law enforcement and security agencies' access to data. But the inability to convict some suspects and the remaining obstacles to more simplified cooperation mean that Germany has more to do. The Christian Democrat - Social Democrat German coalition government that took office November 2005 pledged to strengthen Germany's counterterrorism laws. The first positive results are in and more progress is to come.

-- A draft law broadens and simplifies German security agencies' access to airline, travel, vehicle, bank, and telecom data and renews sunset provisions from post-9/11 laws set to expire January 2007.

-- The Interior Ministry plans a combined terrorist database for the German Joint Counterterrorism Center (GTAZ) to improve information sharing (police/security service and federal/state).

-- The Federal Office of Criminal Investigation (BKA) will get more powers to investigate terrorism.

-- A new law re-implements the EU Arrest Warrant (the Constitutional Court had called for better extradition protection for German nationals, which the new law includes). German officials tell us they now plan to extradite to Spain Mamoun Darkazanli, a Hamburg-based German-Syrian national and suspected al-Qaida financier.

-- A new law will broaden the Interior Minister's ability to ban organizations. A court had overturned the ban of a PKK-linked publication; the Ministry is rewriting the law to re-impose the ban.

-- The government also plans an Aviation and Maritime

Security bill to address terrorist threats from the sky and the seas.

17. (C) Some of the changes above address U.S. priorities. Other changes we seek are in our suggested talking points (below in para 11). Additional USG priorities include longer prison sentences, lower burdens of proof for convictions and asset freezes, tighter laws against leaking classified information, and less onerous data privacy rules. A DoJ priority has been the creation of a way for classified material to be used and protected in court. In July the U.S. Senate ratified the U.S.-German Mutual Legal Assistance Treaty. The Bundestag is to ratify it in October. This agreement -- and the U.S.-EU Agreements on Mutual Legal Assistance and Extradition -- will improve bilateral legal cooperation. We understand the U.S.-EU agreement is to go to the Senate for ratification soon.

18. (SBU) The Madrid and London train bombings raised the concerns of the threat of "home-grown" terrorists. Germany has one of the largest Muslim population in Europe -- 3.2 million, 2.4 million of whom are Turkish. For various reasons, groups with foreign ancestry are overrepresented in the unemployed and incarcerated. Interior Minister Wolfgang Schaeuble is organizing Germany's first high-level "summit" with German Muslim leaders on September 27, which will likely include some groups known to have extremist views, such as Milli Gurus. This initiative follows Chancellor Merkel's July Integration Summit, which focused on steps Germany could take to improve the conditions foreigners face in Germany. These efforts come as some German Muslim leaders say they have more interaction with the U.S. Embassy, via its Muslim outreach, than with German officials. In our suggested points (below in para 11), we ask you to address this issue as well.

Recent Events Prompt Discussion of CT Policies

19. (S) The July 31 discovery of unexploded suitcase bombs in German trains and the subsequent arrests in Germany and Lebanon have triggered new public debate about terrorist threats and what to do about them. Senior official, media, and think tank contacts have told us this creates an opening for the Merkel government and the U.S. to shift the political balance in favor of more robust measures and cooperation. German and U.S. agencies are cooperating closely and while the investigation is ongoing, there are legitimate concerns that the plot was not as amateurish as some initially suspected. German officials offered a 50,000 Euro reward for information leading to an arrest and one Bundestag member called for fingerprinting visa applicants. Minister

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Schaeuble said "never has the threat been so close" and seeks merged CT databases, more bomb-sniffing dogs, more video surveillance in public places like train stations, and more monitoring of the Internet, including of Middle Eastern content. Chancellor Merkel supported the call for more video surveillance. Schaeuble also called for the Muslim community to report extremists in their midst but stressed Muslims are not under general suspicion. Some German Muslims criticized his stance but 16 Muslim organizations issued a statement condemning the plot.

110. (C) Hizballah's battle with Israel prompted additional German discussion: A pro-Hizballah demonstration in Berlin led city authorities to restrict pro-Hizballah propaganda (ref B). German media reported more than 6,000 people, possibly including members of Hizballah, fled Lebanon to Germany. These allegations, and the fact that some of those arrested in the train bombing plot recently traveled to Germany from Lebanon, underscore what we have been saying to German officials about the need for information sharing (Homeland Security Directive Six - HSPD-6). Neither side should tolerate the possibility of attacks that could be

prevented if we share what we know about people who might carry them out. The recent UK airplane bomb plot led Minister Schaeuble to call for EU-wide restrictions on hand luggage and prompted a group of EU interior ministers, including Schaeuble, to call for improved EU CT efforts after a meeting in London. Lastly, in August Germany arrested two PKK leaders, but the other CT stories predominated German discussion other than in the pro-PKK Kurdish media, where the arrests were condemned.

Points to Make

11. (SBU) Your visit is an opportunity to sound the German out on the possibility of moving now to formal exchanges in specific areas. We propose you make the following points.

-- Bilateral counterterrorism cooperation is very strong, although there are limits and obstacles. Effective law enforcement cooperation requires formal and informal information sharing. We applaud tighter German cooperation with its EU partners, which shows German commitment to our shared counterterrorism and law enforcement objectives.

-- But for Germany to take these steps while at the same time complicating U.S.-German cooperation with data privacy and other concerns makes no sense. The vast flows of U.S.-German trade, investment, and traveling public argue for at least as much U.S.-German cooperation.

-- A valuable 9/11 lesson is the need to share information across bureaucratic lines. The U.S. and Germany have learned this lesson because the U.S. has its NCTC, and Germany its GTAZ, where data is exchanged like never before.

-- Similarly, we should systematically share information internationally. We could thwart terrorist acts in Germany by preventing the entry into Germany of those the U.S. believes to be terrorists, and vice versa. We are prepared to be as flexible as possible in how we implement such a program.

-- We agree with Germany's efforts to increase integration of its Muslim population, the vast majority of which oppose terrorism. We hope Germany will expand dialogue with the Muslim community, with a goal of mutual understanding and finding a middle ground between Muslim concerns and German conventions and practices.

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